IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.6 OF 2001

IN

SUIT NO.4154 OF 1998

Trishi Holdings Pvt.Ltd. ...Petitioners

v/s

M/s K.T. Enterprises and ors. ...Respondents

Mr K. Kukreja i/b M/s Kukreja and Co. for Petitioners.

Mr R.D. Soni with Mr M.A. Saiyad i/b M/s Ram and Co. for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 8TH JANUARY 2007.

P.C. :-

1. According to the petitioners, the respondents have disobeyed the ad-interim order made by this Court dated 24th September 1998 passed in notice of motion No.3070 of 1998, inasmuch, according to the petitioners, the respondents have contrary to the ad-interim order entered into leave and licence agreement with Bank of India. The present petition has been filed on 17th January 2001 whereas according to the learned counsel appearing for petitioners, the leave and licence agreement has been entered into with Bank of India on 27th March 2001. Obviously therefore, even if the respondents had committed breach of the order of this Court, it was not committed when the petition was filed. When this was pointed out to the leaned counsel appearing for petitioners, he submitted that as per averments in the petition, the respondents had partly given possession of the premises in favour of Bank of India before January 2001 and that conduct amounts to committing breach of the order of this Court. Perusal of the petition shows that it is not the case of the petitioners in the petition that by handing over possession in favour of Bank of India, the respondents have committed breach of the order. What is pertinent to note here is that the ad-interim order does not

restrain directly the respondents from parting with possession of the premises. Considering that proceedings under the Contempt of Courts Act are quasi-criminal proceedings, obviously unless concrete case is made out, an order cannot be made in contempt petition which may amount to depriving of the liberty of the individual. Contempt petition is disposed off. Petitioners are directed to pay costs of the petition to the respondents as incurred by the respondents. By interim order, certain amounts have been deposited and the Court Receiver has been appointed. Notice of motion in which ad-interim order was passed is still pending. Therefore, those orders shall be taken as passed in that notice of motion. Office is direction to place that notice of motion on board on 18th January 2007.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.